

Exhibit 349

United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.
v. Dey, Inc., et al., Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

ENDORSED

APR 15 2003

Clerk of the Napa Superior Court
By: L. WALKER
Deputy

Coudert Brothers LLP

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Attorneys for Plaintiff
Dey, L.P.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF NAPA

DEY, L.P., a Delaware Limited Partnership,

Plaintiff,

vs.

FIRST DATABANK, INC., a Missouri
corporation, d/b/a First DataBank and
d/b/a PriceAlert; and
WOLTERS KLUWER HEALTH, INC., a
Delaware corporation, d/b/a Medi-Span and
d/b/a Facts and Comparisons,

Defendants.

Case No. **26-21019**

**DECLARATION OF STEVEN
DESROSIERS IN SUPPORT OF
PLAINTIFF'S EX PARTE APPLICATION
FOR A TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW CAUSE
RE PRELIMINARY INJUNCTION**

Date: April 15, 2003
Time: 3:00 p.m.
Dept.: B

Complaint Filed: _____, 2003
Trial Date: N/A

I, Steven Desrosiers, declare under penalty of perjury under the laws of the State of
California as follows:

1. I am a Senior Inside Sales Representative at Dey, L.P. ("Dey"), the plaintiff in the
above-referenced action. As to the following facts, I know them to be true of my own

- 1 -

DECLARATION OF STEVE DESROSIER IN SUPPORT OF PLAINTIFF'S APPLICATION FOR TRO AND
OSC RE PRELIMINARY INJUNCTION
PALOALTO 4057851V1

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1 knowledge and, if required, could competently testify thereto. As to those matters stated on
2 information and belief, I believe them to be true.

3 2. I have been employed, in various capacities, with Dey for 6 years.

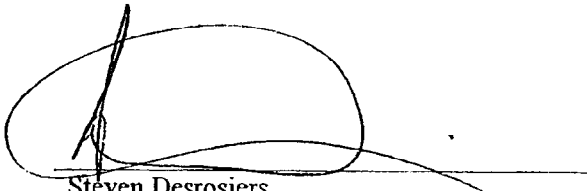
4 3. On Thursday, April 10, 2003, I received three phone calls from pharmacies that
5 dispense Dey pharmaceuticals complaining of a reduction in Dey's Average Wholesale Price
6 ("AWP") as published by First DataBank.

7 4. In the morning, I received a telephone call from a representative of Caremark, an
8 online pharmacy that purchases a large volume of pharmaceuticals from Dey. I was informed
9 that First DataBank had lowered Dey's AWP's for various products, including Ipratropium
10 Bromide and Albuterol Sulfate.

11 5. Later that same day, I received a call from Greg Panka of the Black Hills Medical
12 Pharmacy in Deadwood, South Dakota. Once again, I was informed that First DataBank had
13 lowered the AWP's for Dey's products, which had come to Mr. Panka's attention when he filed
14 for reimbursement for the cost of a Dey pharmaceutical.

15 6. Finally, I received a call from Steve Owen of Owen Healthcare in Abilene, Texas.
16 Mr. Owen explained that if the newly published AWP figures were accurate, he would return his
17 stock of Dey products and switch his business to a competitor.

18
19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct and that this declaration was executed this 14 day of April 2003 at
21 Napa, California.

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25 
26 Steven Desrosiers
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DECLARATION OF STEVE DESROSIER IN SUPPORT OF PLAINTIFF'S APPLICATION FOR TRO AND
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